

1 that, yes, the report's inaccurate because she missed
2 things, there were things in the Public File that she
3 missed.

4 MR. PRICE: Objection.

5 JUDGE SIPPEL: You're asking him to adopt
6 your line of reasoning. I mean this is supposed to be
7 a fact inquiry.

8 MR. SHOOK: Your Honor, we're trying to
9 get at his state of mind --

10 JUDGE SIPPEL: Well --

11 MR. SHOOK: -- when this was done. This
12 is one of the documents that we believe was written
13 inaccurately and written inaccurately for a reason.
14 Written inaccurately and it was understood to be
15 inaccurate.

16 JUDGE SIPPEL: I understand that, but I
17 think you're getting too Freudian there. Take it
18 straight up the way you've been doing it.

19 Let me ask a question while you're
20 rephrasing there. What would you have -- if you were
21 going to write this over again today, okay, what would
22 you say in that sentence?

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1 THE WITNESS: Which sentence, sir?

2 JUDGE SIPPEL: Well, the one that we're
3 talking about here as a part of the file review and
4 update process I assigned her the task of reviewing
5 the file, which in turn does refer -- seems to refer
6 back to what was the last sentence of the previous
7 paragraph. You said that it was inartfully drafted.

8 THE WITNESS: Well I -- the first sentence
9 I wouldn't change except to --

10 JUDGE SIPPEL: Paragraph 10 though?

11 THE WITNESS: Yes. Paragraph 10. Except
12 to replace the word "review" with something that's
13 more exact.

14 JUDGE SIPPEL: Like what?

15 THE WITNESS: In fact, I might just take
16 it out. I recall that in June as part of this file
17 updating process I assigned Ms. Hecht the task of
18 reviewing and then taking reviewing out and
19 straightening out the file.

20 JUDGE SIPPEL: So how would it read as a -
21 - let me go with you, "I recall that in June 1997"
22 comment then, how would you change that?

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1 THE WITNESS: Okay. " I recall that in
2 June 1997 as part of this file update process I
3 assigned Ms. Hecht the task of organizing the file."

4 JUDGE SIPPEL: So then that would be
5 accurate and what you got here is inaccurate? The
6 changes would be accurate but the first sentence of
7 paragraph 10 is inaccurate to that extent?

8 THE WITNESS: Yes, sir.

9 JUDGE SIPPEL: Okay. You may proceed
10 Mr. Shook, I'm sorry.

11 BY MR. SHOOK:

12 Q Focusing on paragraph 12, when you stated,
13 this begins at -- this appears at page 50 of SFUSD
14 Exhibit 4, "I also believed that I fully accounted for
15 all public issues programs during my tenure as general
16 manager in the document which petitioner had labeled
17 Exhibit O, which is what I believed was called for by
18 the question and the rule."

19 Now, one of the things that we talked
20 about during the course of your testimony was whether
21 or not you had actually seen this document that is
22 labeled Petitioner's Exhibit O, at any time prior to

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1 the time you received the Petition to Deny and my
2 recollection of your testimony is that you didn't even
3 see this exhibit, this document until it came in with
4 the petition.

5 A No, I didn't say that.

6 Q What did you say?

7 A I said that I don't remember.

8 Q So are you telling us that you actually
9 saw Exhibit O in whatever form it was in the public
10 file prior to the time the renewal application was
11 signed and sent in?

12 A No, sir. All I'm saying is I don't
13 remember.

14 Q Are you trying to suggest that the City
15 Visions program is the only program that when you say
16 you had fully accounted for all public issues programs
17 during your tenure as general manager, is the City
18 Visions program supposed to be the only such program?

19 A I think you asked two different things.
20 But, what I said in my testimony and what I said all
21 along is that it's the Exhibit O, which is the list of
22 the City Visions program that I relied on to answer

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1 yes to the question, but again, like I've also said,
2 I don't think I completely understood the rule when I
3 responded in that way.

4 Q Understood. But in terms of how this
5 particular sentence is written, you're saying in 1998,
6 January 1998 that when you filled out the renewal
7 application you believed that you had fully accounted
8 for all public issues programs during your tenure as
9 general manager by reference to the City Visions list?

10 A Correct.

11 Q Even though that was with in mind that
12 there was the AIDS Update program, that certainly
13 addressed issues of public issues programs, would that
14 have been also viewed by yourself as a public issues
15 program?

16 A Yes. Today I consider that a program that
17 would cover issues important to the community, yes.

18 Q You also would have considered such a
19 program, Your Legal Rights to be such a program?

20 A Yes.

21 Q You would have considered the Marty Nemco
22 program to be such a program?

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1 A Yes.

2 Q So in other words, this sentence here when
3 you talk about believing that you had fully accounted
4 for all public issues programs you just didn't have in
5 mind those other programs when you drafted this
6 sentence?

7 A I think I know what you're asking here.
8 Again, my approach to completing the application with
9 respect to that question was to place in the public
10 file at least the documentation that I believed met
11 the role as I understand it. As I've said, the City
12 Visions list and the fact that I asked John Covell for
13 is the only one I remember.

14 You asked me if I remember asking any of
15 the other producers of the programs you just mentioned
16 and I remember asking them to create their own list.
17 I don't remember asking them. I could have, I just
18 don't remember asking them. I definitely remember
19 asking John. I just don't remember asking the others.
20 I may have, I just don't remember.

21 Q So you understand -- I mean the context of
22 my question is that this is January of 1998 and at the

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1 time the Commission doesn't have any idea what kind of
2 programming KALW is running.

3 MR. PRICE: Objection. He doesn't know
4 what the information was at the time.

5 MR. SHOOK: Well, what the commission
6 knows is what they're being told. If we're being told
7 --

8 JUDGE SIPPEL: Go ahead. Finish your
9 statement.

10 MR. SHOOK: What we're being told is that
11 the only public issues program during Mr. Ramirez's
12 tenure as general manager is the City Visions program
13 and that's not true, is it.

14 MR. PRICE: Well the requirement was that
15 they identified only the -- they identify the most
16 significant issues covered. It's not that they
17 identified all of the issues covered. So, they may --
18 what they interpret Exhibit O or any other document in
19 the file isn't something that Mr. Ramirez can
20 speculate on.

21 JUDGE SIPPEL: I'm going to sustain the
22 objection.

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1 BY MR. SHOOK:

2 Q Okay. But just so we understand each
3 other. In addition to City Visions as far as public
4 interest programming goes, AIDS Update would certainly
5 qualify as one, correct?

6 A Yes. Today I consider that one of those
7 core programs.

8 Q The work program with Marty Nemco whether
9 it was the school and career talk program or whether
10 it was the work of Marty Nemco program, that certainly
11 would have qualified as well?

12 A Yes.

13 Q Your Legal Rights would have qualified as
14 well?

15 A Yes.

16 Q Now, do you have any explanation as to why
17 your January 1998 declaration says absolutely nothing
18 about an October 1997 public file inventory?

19 MR. PRICE: Objection.

20 JUDGE SIPPEL: What's your basis of
21 speculation?

22 MR. PRICE: They're asking to speculate

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1 why the document doesn't contain something that was --

2 JUDGE SIPPEL: I'll sustain it.

3 BY MR. SHOOK:

4 Q But the inventory had shown that the
5 public file had all required classes and documents,
6 why didn't you just point that out to the commission?

7 A I don't know what inventory you're talking
8 about.

9 Q The inventory that is referenced in
10 Mr. Sanchez' bill.

11 JUDGE SIPPEL: Well, now wait a minute.
12 Now Mr. Sanchez wrote that word down.

13 MR. PRICE: The witness has testified that
14 he has recollection of that inventory.

15 JUDGE SIPPEL: At least once. So, I'm
16 going to -- well I'm instructing you not to ask that
17 question again.

18 BY MR. SHOOK:

19 Q On or about the time the opposition that
20 the San Francisco Unified School District submitted to
21 the Golden Gate Public Radio Petition to Deny, were
22 you aware that William Helgeson was also providing a

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1 declaration that addressed the Petition to Deny's
2 Public Inspection File allegations?

3 A I missed the first part of your question.

4 Q Okay. On or about January 20, 1998 which
5 is when the opposition pleading --

6 A Okay.

7 Q -- to the Golden Gate Public Radio
8 Petition to Deny was filed, were you aware that
9 William Helgeson was also providing a declaration that
10 addressed the petition's Public Inspection File
11 allegations?

12 A Yes. Yes, I remember being aware that
13 Bill Helgeson was also preparing a affidavit.

14 Q I want to direct your attention to SFUSD
15 Exhibit 4, pages 74 and 75.

16 MR. PRICE: Do you have that?

17 THE WITNESS: Yes, I do.

18 JUDGE SIPPEL: Four? That's the
19 opposition?

20 MR. SHOOK: Yes, sir.

21 JUDGE SIPPEL: The page please?

22 MR. SHOOK: Seventy-four and seventy-five.

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1 BY MR. SHOOK:

2 Q Mr. Ramirez do you see that Mr. Helgeson's
3 declaration is apparently executed on January 16,
4 1998?

5 A Yes, I see that.

6 Q That was one day before your declaration
7 was executed?

8 A Yes.

9 Q Did you see the declaration of
10 Mr. Helgeson on or about the day he signed it?

11 A No.

12 Q Did you see it on or about the day you
13 signed your declaration?

14 A No.

15 Q You were aware that he provided a
16 declaration though?

17 A Yes.

18 Q Now looking at paragraph 4 of
19 Mr. Helgeson's declaration where he states, I am aware
20 of and have assisted with an ongoing affirmative
21 effort since the arrival of Jeffery Ramirez as general
22 manager of KALW to update and maintain the station's

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1 Public Inspection File in accordance with the rules of
2 the Federal Communications Commission. Do you know
3 whether that statement is accurate?

4 A No, I don't.

5 MR. PRICE: Objection. He can't speculate
6 as to what Mr. Helgeson was aware of at the time.

7 JUDGE SIPPEL: He's not. He's simply
8 asking whether or not the statement's accurate.

9 MR. PRICE: The statement as to the
10 ongoing affirmative effort, the statement is if
11 Mr. Hegelson's aware of it, I guess that's my
12 objection.

13 JUDGE SIPPEL: All right. So let's break
14 it up. Take the sentence, if you would Mr. Shook,
15 leaving Mr. Helgeson's awareness out of it whether or
16 not it would be accurate to state the ongoing
17 affirmative effort.

18 MR. SHOOK: Well let me break it out then.

19 JUDGE SIPPEL: Thank you.

20 BY MR. SHOOK:

21 Q Mr. Ramirez, what kind of assistance did
22 Mr. Helgeson provide?

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1 MR. PRICE: Objection. Can you just
2 clarify what -- the kind of assistance Mr. Helgeson
3 provide in the context to this paragraph?

4 MR. SHOOK: In the context of this -- in
5 the context of this paragraph.

6 JUDGE SIPPEL: All right. Now you both
7 can't talk --

8 MR. PRICE: -- we're all talking about
9 this one paragraph.

10 JUDGE SIPPEL: All right. But you can't -
11 - both counsel can't talk at the same time. Again,
12 I'm going to sustain your objection. I want to be
13 very specific in terms of precisely what it is that
14 you're talking about when you ask the question.

15 BY MR. SHOOK:

16 Q What kind of assistance did Mr. Helgeson
17 provide in connection with the ongoing affirmative
18 efforts since the arrival of Jeffery Ramirez as
19 general manager of KALW to update and maintain the
20 station's Public Inspection File in accordance with
21 the rules of the Federal Communications Commission?

22 A I'm not aware of any assistance that Bill

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1 provided me since I had arrived at the station. I'm
2 aware that at the time I started completing the
3 license renewal application, I would have sought
4 Bill's assistance in one respect or another to help
5 update and subsequently maintain the public inspection
6 file.

7 Q So in other words, for -- at least in
8 terms of the question that I just asked, to make this
9 paragraph accurate would it read -- should it read in
10 terms of assistance I have assisted with an ongoing
11 affirmative effort since when? Since May of 1997?

12 MR. PRICE: Objection, Your Honor. He's
13 still can't speculate as to what Mr. Hegelson was
14 aware of. He can certainly ask Mr. Ramirez if the
15 sentence is rephrased if it was correct in his
16 estimation at the time.

17 JUDGE SIPPEL: Well, yes. All right. I
18 will include that qualification and I will permit this
19 question.

20 THE WITNESS: Can you restate the
21 question?

22 MR. SHOOK: Well it's been kind of

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1 tinkered with.

2 JUDGE SIPPEL: Go ahead. You can try it
3 again. I think that it's worded correctly, so.

4 BY MR. SHOOK:

5 Q The way this sentence -- the way this one
6 sentence paragraph is written, it seems to suggest
7 that the ongoing affirmative effort in terms of
8 assistance began with your arrival as general manager
9 as far as updating and maintaining the public
10 inspection file.

11 Now according to your own testimony, you
12 didn't even become aware that there was a Public
13 Inspection File to be concerned about until the
14 renewal application showed up in May of 1997.

15 A Correct.

16 Q So in other words, to make this sentence
17 accurate instead of suggesting that the updating and
18 maintaining and the assistance that Mr. Helgeson was
19 providing occurred at the time of your arrival or
20 since the time of your arrival, it really should read
21 since the time the renewal application came to the
22 attention of -- came to your attention?

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1 MR. PRICE: Objection. It's the same
2 objection I raised before, Your Honor. It's just re-
3 characterizing the same paragraph. The only
4 limitation I'd like to put on it is the way he
5 rephrased the question again after -- I mean before
6 was are you -- did Mr. Helgeson assist you in any --
7 what assistance did Mr. Helgeson assist you with in an
8 ongoing affirmative effort since your arrival.

9 The answer was, he wasn't aware of any
10 until the license renewal application arrived. What
11 I think he's trying to ask is so if I asked you if the
12 ongoing affirmative effort again at the time of the
13 license renewal application arrived, would that have
14 been correct.

15 I think that separates it from what
16 Mr. Helgeson's trying to get at here and what his
17 awareness is. I just don't think that Mr. Ramirez can
18 --

19 JUDGE SIPPEL: Well I'm not going to take
20 this Q and A process here and apply it to
21 Mr. Helgeson, but I think what Mr. Shook is doing is
22 testing the accuracy of what's in that paragraph. So,

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1 --

2 MR. PRICE: I'm just -- just so we're
3 clear and Mr. Ramirez is clear on what he's asking,
4 he's not being asked to testify as to what
5 Mr. Helgeson was aware of, he's asking whether his
6 analysis of the paragraph would be correct if it were
7 altered? Is that correct?

8 JUDGE SIPPEL: Well that's essentially it,
9 right? I mean that's what you're trying to -- now, I
10 don't want to put words in Mr. Shook's mouth. If you
11 want to go down that line and ask him if he has any
12 knowledge of what Mr. Helgeson's mental impressions
13 were at the time that -- and we're getting in to
14 admissions and what not, but we're not there.

15 MR. SHOOK: Well let me try --

16 JUDGE SIPPEL: We're simply trying to
17 extrapolate from this witness what he feels would be
18 an accurate representation of this paragraph and he's
19 admitted half of what you're asking him.

20 MR. SHOOK: All right.

21 BY MR. SHOOK:

22 Q What I would like him to do is to tell me

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1 how to make this paragraph accurate.

2 A I mean, the way I read this, I mean I
3 don't know what everyone else has been reading, but
4 the way I read this is I'm aware of the assistance
5 that Bill would have provided in the effort to update
6 the Public Inspection File from when I started working
7 on the file.

8 If Bill had been working on the file
9 himself since I arrived without letting me know, that
10 could have been the case. I'm just not aware. I
11 wouldn't -- I'm not aware if he was working on the
12 file on his own without telling me.

13 Q I see. Okay. So as far as you know then
14 there's at least the possibility that Mr. Helgeson was
15 working independently without your knowledge to update
16 and maintain the public file in accordance with the
17 FCC's rules since your arrival?

18 A It's conceivable.

19 Q Were you aware of any such effort?

20 A No. Like I said, the only awareness that
21 I have of Bill assisting with an effort to update the
22 files was starting when I started working on it in

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1 relationship to completing the license renewal
2 application.

3 Q What assistance did Mr. Helgeson provide
4 to you at that point?

5 A I can't recall anything specific. But I
6 would have asked Bill for help because this would have
7 been a time consuming project. It would have involved
8 labor, for instance.

9 While I can't remember asking people like
10 Chuck Finney or Marty Nemco or producers who I
11 wouldn't have crossed paths with regularly at the
12 station if it's -- it's conceivable that I could have
13 asked Bill to contact them to create their list as
14 well.

15 Q Did you ever talk with Mr. Helgeson to
16 find out what it was that he was doing before May 1997
17 with respect to the public file?

18 A No. I don't remember.

19 Q Did he ever tell you that he was doing
20 something with respect to the public file before
21 May 1997?

22 A I don't know.

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1 Q You don't recall one way or the other?

2 A Yes.

3 JUDGE SIPPEL: What does that mean, yes?
4 Yes, you don't recall?

5 THE WITNESS: Yes. I mean, we started
6 with my analysis in parsing of this sentence.

7 JUDGE SIPPEL: That's true.

8 THE WITNESS: What I was just asked was
9 basically what I said in so many other words, if Bill
10 was already working on the file before I started
11 working on the file to complete the license renewal
12 application. I'm not aware of what he was doing, no.

13 MR. SHOOK: I guess we'll have a chance to
14 find out directly from Mr. Helgeson what he was doing
15 and what he wasn't doing.

16 JUDGE SIPPEL: You're stealing my
17 thoughts.

18 MR. SHOOK: Your Honor, that's a dangerous
19 game.

20 BY MR. SHOOK:

21 Q I want to show you EB Exhibit 10.

22 MR. PRICE: You have my copy so I'm just

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1 going to --

2 BY MR. SHOOK:

3 Q Would you be the Jeff that's referred to
4 in EB Exhibit 10?

5 A Yes, that's my best guess.

6 Q Would there be any other Jeff?

7 A No.

8 Q Who is Ana?

9 A Ana Perez was our youth program manager.
10 She helped coordinate the student involvement in the
11 station.

12 Q What list is the memo referring to?

13 A I don't know.

14 Q Do you have any understanding as to what
15 Bill Helgeson meant by the term "clean up" when
16 referring to the public file?

17 A No, I don't.

18 Q Were you still adding documents to the
19 public file in January 1998 that should have been
20 there when the renewal application certification was
21 made?

22 A I don't remember.

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1 Q Before your deposition --

2 JUDGE SIPPEL: I'm sorry. Where are you
3 finding a date on this document? On the top?

4 MR. SHOOK: There's a fax on there.

5 JUDGE SIPPEL: The fax? That's
6 January 30, 1996.

7 MR. SHOOK: Your Honor, we understand it
8 to be 1998. Now considering the people who are there,
9 I believe Ana Perez wasn't at the station in 1996.

10 JUDGE SIPPEL: But we agree that it's '98?

11 MR. PRICE: Yes. Mr. Ramirez was there.

12 MR. SHOOK: In January 1996, no he was not
13 there, no.

14 BY MR. SHOOK:

15 Q Mr. Ramirez, before your deposition in
16 this proceeding, which is SFUSD Exhibit 1, did you
17 ever confide to anyone that SFUSD's response to
18 section 3, question 2 in the renewal application had
19 been erroneous?

20 A Can I refer to the part of the deposition
21 you're referring to?

22 Q Okay.

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1 A What page are you on?

2 Q Okay. I'm going to have to come back to
3 that because I don't have the specific page reference
4 noted here. However, looking at your deposition SFUSD
5 Exhibit 1, and this time go to pages 113 to 117.

6 MR. PRICE: Just to clarify, are we
7 talking 113 on the top or 113 the SFUSD number on the
8 bottom?

9 MR. SHOOK: It should be -- I'm not sure
10 since we have a difference of one page. It's
11 deposition page 112, Exhibit page 113.

12 MR. PRICE: Thank you.

13 THE WITNESS: One-twelve up in the upper
14 right-hand corner?

15 MR. SHOOK: Yes. Then if you look down at
16 the bottom it will say page 113 of 142.

17 THE WITNESS: Okay. I see that.

18 MR. PRICE: May I ask the witness, he
19 needs to refer to page 111 where the question begins.

20 THE WITNESS: Where should I start
21 reading?

22 MR. SHOOK: Why don't you read to yourself

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1 beginning at Deposition page 111, which is page 112 of
2 the Exhibit. Just read the next five pages to
3 yourself.

4 JUDGE SIPPEL: You can start with 120
5 there is the question.

6 MR. PRICE: If I could just ask the
7 witness if he doesn't understand which document
8 they're referring to in the question, he can feel free
9 to refer to the earlier page.

10 MS. REPP: Starting on page 110, line 19.

11 THE WITNESS: Where should I stop reading?
12 I'm sorry.

13 JUDGE SIPPEL: How much do you want him to
14 read of this, Mr. Shook?

15 BY MR. SHOOK:

16 Q Where are you Mr. Ramirez?

17 A At the middle of page 114, top right-hand
18 corner.

19 Q That'll suffice for now.

20 A Okay.

21 Q At your deposition I had asked you to
22 review SFUSD's responses to request for admissions

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1 that the bureau had prepared. One of the things that
2 we did was we went through the questions one by one to
3 try to determine what input, if any, you had with
4 respect to the responses. Do you recall that?

5 A Yes.

6 Q Now, with that in mind I would like you to
7 turn to EB Exhibit 37, pages 4 and 5.

8 A Okay. Pages 4 and 5?

9 Q Specifically the response given to request
10 number 7 and also SFUSD Exhibit 17, which is revised,
11 you have to look it as a reminder for that. One of
12 these is the Bureau Exhibits; one of these is SFUSD's
13 exhibits.

14 A I'm sorry. What page of the revised,
15 Mr. Shook?

16 Q Pages 4 and 5 would be the response given
17 to request 7.

18 MR. PRICE: Do you want him to review both
19 of the answers before you ask the question?

20 MR. SHOOK: Certainly.

21 THE WITNESS: Is there one that I should
22 read first?

NEAL R. GROSS

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